

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**SMARTPHONE TECHNOLOGIES,
LLC,**

Plaintiff,

v.

**DELL, INC. d/b/a DELL COMPUTER,
INC. d/b/a DELL COMPUTER,**

Defendant.

Civil Action No. 6:12cv154

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which plaintiff, SmartPhone Technologies, Inc. (“SmartPhone”), complains against defendant, Dell, Inc. d/b/a Dell Computer, Inc. d/b/a Dell Computer (“Dell”), as follows:

THE PARTIES

1. SmartPhone is a Texas limited liability company with its principal place of business at 6136 Frisco Square Boulevard, Suite 385, Frisco, Texas 75034.
2. On information and belief, Dell is a Delaware corporation with a principal place of business at 1 Dell Way, Round Rock, Texas 78682. Dell’s registered agent for service of process in Texas is Corporation Service Company d/b/a+, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331

and 1338(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b, c) and 1400(b). On information and belief, Dell regularly transacts business in this district, including at 2201 Preston Road, Suite E. Plano, Texas 75093, has purposely transacted business involving its accused product(s) in this judicial district, and has committed acts of direct and/or indirect infringement in this judicial district.

5. On information and belief, Dell is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to its conducting substantial business in this forum including: (A) at least part of its infringing activities alleged herein, and (B) regularly doing or soliciting business, engaging in other persistent causes of conduct, and/or deriving substantial revenue from goods and services provided to persons and other entities in Texas and this judicial district.

COUNT I
(Infringement of U.S. Patent No. 7,664,485)

6. SmartPhone repeats and realleges paragraphs 1-5 above.

7. SmartPhone is the exclusive licensee of United States patent number 7,664,485 entitled "MAKING A PHONE CALL FROM AN ELECTRONIC DEVICE HAVING AN ADDRESS LIST OR A CALL HISTORY" ("the '485 patent") with ownership of all substantial rights in the '485 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the '485 patent is attached as Exhibit A.

8. On information and belief, Dell is at a minimum directly infringing at least one claim of the '485 patent in this judicial district and elsewhere in Texas by, among other

things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue, that performs the function of making a phone call and has an address list and/or a call history list. Dell and/or other users of Dell's Venue device have at a minimum directly infringed the '485 patent and Dell is thereby liable for infringement of the '485 patent pursuant to 35 U.S.C. § 271. Dell's infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

9. The infringement of the '485 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT II
(Infringement of U.S. Patent No. 7,526,283)

10. SmartPhone repeats and realleges paragraphs 1-5 above.

11. SmartPhone is the exclusive licensee of United States patent number 7,526,283 entitled "METHOD AND SYSTEM FOR SINGLE-STEP ENABLEMENT OF TELEPHONY FUNCTIONALITY FOR A PORTABLE COMPUTER SYSTEM" ("the '283 patent") with ownership of all substantial rights in the '283 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the '283 patent is attached as Exhibit B.

12. On information and belief, Dell is at a minimum directly infringing at least one claim of the '283 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue, that performs single-step enablement of telephony functionality for

a portable computer system. Dell and/or other users of Dell's Venue device have at a minimum directly infringed the '283 patent and Dell is thereby liable for infringement of the '283 patent pursuant to 35 U.S.C. § 271. Dell's infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

13. The infringement of the '283 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT III
(Infringement of U.S. Patent No. 7,506,064)

14. SmartPhone repeats and realleges paragraphs 1-5 above.

15. SmartPhone is the exclusive licensee of United States patent number 7,506,064 entitled "HANDHELD COMPUTER SYSTEM THAT ATTEMPTS TO ESTABLISH AN ALTERNATIVE NETWORK LINK UPON FAILING TO ESTABLISH A REQUESTED NETWORK LINK" ("the '064 patent") with ownership of all substantial rights in the '064 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the '064 patent is attached as Exhibit C.

16. On information and belief, Dell is at a minimum directly infringing at least one claim of the '064 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue, that attempts to establish an alternative link upon failing to establish a requested network link. Dell and/or other users of Dell Venue device have at a minimum directly infringed the '064 patent and Dell is thereby liable for infringement of the

‘064 patent pursuant to 35 U.S.C. § 271. Dell’s infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

17. The infringement of the ‘064 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT IV
(Infringement of U.S. Patent No. 7,076,275)

18. SmartPhone repeats and realleges paragraphs 1-5 above.

19. SmartPhone is the exclusive licensee of United States patent number 7,076,275 entitled “METHOD AND SYSTEM FOR SINGLE-STEP ENABLEMENT OF TELEPHONY FUNCTIONALITY FOR A PORTABLE COMPUTER SYSTEM” (“the ‘275 patent”) with ownership of all substantial rights in the ‘275 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the ‘275 patent is attached as Exhibit D.

20. On information and belief, Dell is at a minimum directly infringing at least one claim of the ‘275 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue, that performs single-step enablement of telephony functionality for a portable computer system. Dell and/or other users of Dell’s Venue device have at a minimum directly infringed the ‘275 patent and Dell is thereby liable for infringement of the ‘275 patent pursuant to 35 U.S.C. § 271. Dell’s infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

21. The infringement of the '275 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT V
(Infringement of U.S. Patent No. 6,956,562)

22. SmartPhone repeats and realleges paragraphs 1-5 above.

23. SmartPhone is the exclusive licensee of United States patent number 6,956,562 entitled "METHOD FOR CONTROLLING A HANDHELD COMPUTER BY ENTERING COMMANDS ONTO A DISPLAYED FEATURE OF THE HANDHELD COMPUTER" ("the '562 patent") with ownership of all substantial rights in the '562 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the '562 patent is attached as Exhibit E.

24. On information and belief, Dell is at a minimum directly infringing at least one claim of the '562 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue, that performs the function of controlling a handheld computer by entering commands onto a displayed feature of the handheld computer. Dell and/or other users of Dell's Venue device have at a minimum directly infringed the '562 patent and Dell is thereby liable for infringement of the '562 patent pursuant to 35 U.S.C. § 271. Dell's infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

25. The infringement of the '562 patent by Dell has caused injury to SmartPhone

for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT VI
(Infringement of U.S. Patent No. 6,950,645)

26. SmartPhone repeats and realleges paragraphs 1-5 above.

27. SmartPhone is the exclusive licensee of United States patent number 6,950,645 entitled “POWER-CONSERVING INTUITIVE DEVICE DISCOVERY TECHNIQUE IN A BLUETOOTH ENVIRONMENT” (“the ‘645 patent”) with ownership of all substantial rights in the ‘645 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the ‘645 patent is attached as Exhibit F.

28. On information and belief, Dell is at a minimum directly infringing at least one claim of the ‘645 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue, that performs a power-conserving intuitive device discovery technique in a Bluetooth environment. Dell and/or other users of Dell’s Venue device have at a minimum directly infringed the ‘645 patent and Dell is thereby liable for infringement of the ‘645 patent pursuant to 35 U.S.C. § 271. Dell’s infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

29. The infringement of the ‘645 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT VII
(Infringement of U.S. Patent No. 6,928,300)

30. SmartPhone repeats and realleges paragraphs 1-5 above.

31. SmartPhone is the exclusive licensee of United States patent number 6,928,300 entitled “METHOD AND APPARATUS FOR AUTOMATED FLEXIBLE CONFIGURING OF NOTIFICATIONS AND ACTIVATION” (“the ‘300 patent”) with ownership of all substantial rights in the ‘300 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the ‘300 patent is attached as Exhibit G.

32. On information and belief, Dell is at a minimum directly infringing at least one claim of the ‘300 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue, that provides for automated flexible configuring of notifications and activation. Dell and/or other users of Dell’s Venue device have at a minimum directly infringed the ‘300 patent and Dell is thereby liable for infringement of the ‘300 patent pursuant to 35 U.S.C. § 271. Dell’s infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

33. The infringement of the ‘300 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT VIII
Infringement of U.S. Patent No. Re. 40,459)

34. SmartPhone repeats and realleges paragraphs 1-5 above.

35. SmartPhone is the exclusive licensee of United States patent number Re. 40,459 entitled “METHOD AND APPARATUS FOR COMMUNICATING INFORMATION OVER LOW BANDWIDTH COMMUNICATIONS NETWORKS” (“the ‘459 patent”) with ownership of all substantial rights in the ‘459 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the ‘459 patent is attached as Exhibit H.

36. On information and belief, Dell is at a minimum directly infringing at least one claim of the ‘459 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue, that communicates information over low bandwidth communications networks. Dell and/or other users of Dell’s Venue device have at a minimum directly infringed the ‘459 patent and Dell is thereby liable for infringement of the ‘459 patent pursuant to 35 U.S.C. § 271. Dell’s infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

37. The infringement of the ‘459 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT IX
(Infringement of U.S. Patent No. 7,533,342)

38. SmartPhone repeats and realleges paragraphs 1-5 above.

39. SmartPhone is the exclusive licensee of United States patent number 7,533,342 entitled “SYSTEM AND METHOD OF A PERSONAL COMPUTER DEVICE PROVIDING TELEPHONE CAPABILITY” (“the ‘342 patent”) with ownership of all substantial rights in the ‘342 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the ‘342 patent is attached as Exhibit I.

40. On information and belief, Dell is at a minimum directly infringing at least one claim of the ‘342 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue that is a computer device for providing telephone capability. Dell and/or other users of Dell’s Venue device have at a minimum directly infringed the ‘342 patent and Dell is thereby liable for infringement of the ‘342 patent pursuant to 35 U.S.C. § 271. Dell’s infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

41. The infringement of the ‘342 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT X
(Infringement of U.S. Patent No. 6,442,251)

42. SmartPhone repeats and realleges paragraphs 1-5 above.

43. SmartPhone is the exclusive licensee of United States patent number 6,442,251 entitled “METHOD AND APPARATUS FOR TAKING A NOTE WHILE IN A CALL” (“the ‘251 patent”) with ownership of all substantial rights in the ‘251 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the ‘251 patent is attached as Exhibit J.

44. On information and belief, Dell is at a minimum directly infringing at least one claim of the ‘251 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue that is a device that takes a note while in a call. Dell and/or other users of Dell’s Venue device have at a minimum directly infringed the ‘251 patent and Dell is thereby liable for infringement of the ‘251 patent pursuant to 35 U.S.C. § 271. Dell’s infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

45. The infringement of the ‘251 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

COUNT XI
(Infringement of U.S. Patent No. 6,466,236)

46. SmartPhone repeats and realleges paragraphs 1-5 above.

47. SmartPhone is the exclusive licensee of United States patent number 6,466,236 entitled “SYSTEM AND METHOD FOR DISPLAYING AND MANIPULATING MULTIPLE CALENDARS ON A PERSONAL DIGITAL ASSISTANT” (“the ‘236 patent”) with ownership of all substantial rights in the ‘236 patent, including the right to exclude others from practicing the inventions claimed therein and to sue and recover damages for past and future infringement thereof. A true and correct copy of the ‘236 patent is attached as Exhibit K.

48. On information and belief, Dell is at a minimum directly infringing at least one claim of the ‘236 patent in this judicial district and elsewhere in Texas by, among other things, making, using, offering for sale, selling and/or importing devices and/or services, including the Dell Venue that displays and manipulates multiple calendars on a personal digital assistant. Dell and/or other users of Dell’s Venue device have at a minimum directly infringed the ‘236 patent and Dell is thereby liable for infringement of the ‘236 patent pursuant to 35 U.S.C. § 271. Dell’s infringement has caused damage to SmartPhone, which infringement and damage will continue unless and until Dell is enjoined.

49. The infringement of the ‘236 patent by Dell has caused injury to SmartPhone for which remedies at law are inadequate. Considering the balance of hardships between SmartPhone and Dell, a remedy in equity such as a permanent injunction is warranted and would be in the public interest.

PRAYER FOR RELIEF

WHEREFORE, SmartPhone respectfully requests that this Court:

A. Enter judgment in favor of SmartPhone that Dell has infringed the patents-in-suit as aforesaid;

B. Grant a permanent injunction enjoining Dell, its officers, directors, agents, servants, affiliates, employees, divisions, subsidiaries, branches, parents and all others acting in concert or privity therewith from any and all further infringement of the patents-in-suit pursuant to 35 U.S.C. § 283;

C. Enter judgment finding Dell liable to SmartPhone and ordering Dell to pay SmartPhone its damages with pre- and post-judgment interest thereon pursuant to 35 U.S.C. § 284 and an ongoing royalty; and

D. Grant any and all further relief to which the Court may deem SmartPhone entitled.

DEMAND FOR JURY TRIAL

SmartPhone requests a trial by jury on all issues so triable by right pursuant to Fed.

R. Civ. P. 38.

SMARTPHONE TECHNOLOGIES, LLC

Dated: March 14, 2012

By: /s/ Paul Hayes (w/permission W. Hill)

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